

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PAINTERS DISTRICT COUNCIL NO. 2,)
GREGG SMITH, in His Capacity as Business)
Manager of PAINTERS DISTRICT COUNCIL NO. 2,)
PAINTERS DISTRICT COUNCIL NO. 2 PENSION)
TRUST, PAINTERS DISTRICT COUNCIL NO. 2)
WELFARE TRUST, PAINTERS DISTRICT COUNCIL)
NO. 2 VACATION TRUST, and PAINTERS DISTRICT)
COUNCIL NO. 2 APPRENTICESHIP AND)
JOURNEYMAN TRAINING TRUST, By and through)
GREGG SMITH, DAVID DOERR, RICH LUCKS,)
WILLIAM BOEVINGLOH, CARL FARRELL, DONALD)
THOMAS, DANIEL WEINSTROER, MICHAEL SMITH,)
DANIEL HANSON, STEVE PHILLIPP, JR., MARK)
BORGMANN, MICHAEL SLATTERY, JOSEPH KEIPP,)
IM WEIS and FRED PHILLIP JR., in Their Representative)
Capacities as Trustees of the PAINTERS DISTRICT)
COUNCIL NO. 2 PENSION, WELFARE, VACATION)
and APPRENTICESHIP AND JOURNEYMAN)
TRAINING TRUSTS,)

Plaintiffs,)

v.)

MIKE WYNN d/b/a WYNN DECORATING,)
and PAMELA WYNN,)

Defendants.)

No. 4:13-CV-1995 CAS

DEFAULT JUDGMENT

This matter is before the Court on plaintiffs' motion for default judgment against defendants Mike Wynn d/b/a Wynn Decorating and Pamela Wynn (hereinafter collectively referred to as "Defendants"), as supplemented by Document 25. Plaintiffs filed this action on October 7, 2013 under the Employee Retirement Income Security Act, 29 U.S.C. §§ 1132 and 1145, and the Labor Management Relations Act, 29 U.S.C. § 185. The Complaint alleges defendants have failed to make accounting and to fully pay several employee benefit funds and


contributions due under the collective bargaining agreement between defendant Mike Wynn, d/b/a Wynn Decorating, and his employees' union, and that defendant Pamela Wynn has failed to pay under the unconditional guaranty she executed of Mike Wynn, d/b/a Wynn Decorating's obligations to plaintiffs. Plaintiffs are the union and the trustees, sponsors and/or fiduciaries of the various funds. In support of their motion, plaintiffs submit the affidavit of Charles Kinder, Manager with Grabel, Schneiders, Hollman & Co., P.C., with an attached report of accounting, and the affidavit of their attorney, James P. Faul. Plaintiffs have previously submitted the applicable collective bargaining agreements, signature pages, contribution reports, and the personal guaranty executed by defendant Pamela Wynn.

The Clerk of the Court issued a Clerk's Entry of Default against the defendants pursuant to Rule 55(a), Federal Rules of Civil Procedure, on December 5, 2013. [Doc. 8] On April 7, 2014, the Court granted plaintiffs' motion for an Order compelling defendant Mike Wynn to submit his books and records to plaintiffs for an accounting. [Doc. 14] Plaintiffs' motion for default judgment, as supplemented, asserts that Defendants owe \$4,593.44 in delinquent fringe benefit contributions for the period of December 1, 2012 through June 30, 2014, and \$844.71 in liquidated damages. The applicable collective bargaining agreement and ERISA, 29 U.S.C. § 1132(g)(2), require delinquent employers to pay plaintiffs' attorneys' fees, accounting fees and costs. Plaintiffs incurred \$2,396.16 for legal fees, \$943.62 for accounting fees, and court costs of \$485.00. Based on the evidence presented, the Court finds that the services performed by plaintiffs' attorneys were reasonable and necessary to the litigation of this case, that the rates charged were reasonable, and that the amount sought for attorneys' fees is reasonable.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motion for default judgment, as supplemented, is **GRANTED**. [Doc. 21]

IT IS FURTHER ORDERED, ADJUDGED and DECREED that judgment by default is entered in favor of plaintiffs and against defendants Mike Wynn, d/b/a Wynn Decorating, and Pamela Wynn, jointly and severally, in the total amount of Eight Thousand Four Hundred Eighteen Dollars and Twenty-Two Cents (\$8,418.22), as and for delinquent benefit contributions, liquidated damages and interest for the period of December 1, 2012 through June 30, 2014, together with court costs, accounting fees and attorneys' fees.


CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 5th day of January, 2015.